

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ALPHONSO WYMES,)	CASE NO. 1:07 CV 130
)	
Petitioner,)	JUDGE CHRISTOPHER A. BOYKO
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
MICHELE EBERLIN,)	<u>AND ORDER</u>
)	
Respondent.)	

On January 17, 2007, petitioner pro se Alphonso Wymes filed the above-captioned habeas corpus action under 28 U.S.C. § 2254. Wymes is incarcerated in an Ohio penal institution, having been convicted, pursuant to a guilty plea, of attempted felonious assault. For the reasons stated below, the petition is denied and this action is dismissed.

A federal district court may entertain a petition for a writ of habeas corpus by a person in state custody only on the ground that the custody violates the Constitution or laws of the United States. Furthermore, the petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254.

The petition asserts the trial court lacked jurisdiction to accept a plea because Wymes's right to a speedy trial was

violated. There is no suggestion on the face of the petition that Wymes preserved this issue when he pled guilty. As a guilty plea represents a break in the chain of events which preceded it in the criminal process, he may not raise an issue relating to an asserted constitutional violation which occurred prior to the plea. Tollett v. Henderson, 411 U.S. 258 (1973); see, Howard v. White, No. 03-1042, 76 Fed.Appx. 52 (6th Cir. Sept. 16, 2003).

Accordingly, the petition is denied and this action is dismissed pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. 28 U.S.C. § 2253; Fed.R.App.P. 22(b).

IT IS SO ORDERED.

FILED

MAR 20 2007

CLERK OF COURTS
U.S. DISTRICT COURT, N.D.O.
CLEVELAND

Christopher A. Boyko

CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE